

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

ETA 3164.2011

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Public Utility Pole Attachment Contracts

Background

Private lessees pay leasehold excise tax (LET) for the privilege of occupying or using publicly owned real or personal property through a leasehold interest. Public entities collect the tax from the private lessee, or the sublessee if the lessee is also a tax-exempt public entity. If the public entity fails to collect the tax, the Department of Revenue may collect the tax directly from the lessee/sublessee.

Scope of ETA

This excise tax advisory explains the application of LET to utility pole attachment contracts that allow a private lessee/sublessee access to a publicly-owned utility pole for the purpose of attaching the lessee's/sublessee's own wires and/or cables to the poles.

Conditions under which LET applies to pole attachments

LET applies to such utility pole attachment contracts only when the following criteria are met:

- (1) The pole is owned by a public entity;
 - (2) The pole attachment contract grants the private lessee/sublessee the right to occupy a specifically identified location on the pole for a period of 30 consecutive days or longer; and
 - (3) The lessee/sublessee has unrestricted access to the utility pole during that time period to use and maintain the pole attachments.
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